



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

100 Cambridge Street
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Boston, Massachusetts 02114

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Docket No. X308517

BRUCE McLAY
Appellant.

v.

**BOARD OF ASSESSORS OF THE
TOWN OF MARION**

Appellee.

DECISION WITH FINDINGS

The assessors' Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the affidavits submitted in support of the Motion and the arguments advanced at the May 30, 2019 hearing of the Motion,¹ the Board finds and rules as follows.

This appeal concerns the fiscal year 2018 assessment of real estate tax in the amount of \$5,722.00 on property located at 43 West Avenue in Marion ("subject property"). The appellant made a single payment toward the fiscal year 2018 real estate tax on January 3, 2018. Because the appellant made no timely payments of the first or second quarter tax bills, interest in the amount of \$115.90 was incurred. The average of the prior three years' taxes is \$5,694.91.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$5,000; (2) interest is incurred on any installment of the tax bill, including a preliminary installment; and (3) the three-year average provision under G.L. c. 59, §§ 64 and 65 is not met. See, e.g. G.L. c. 59, §§ 64 and 65; *Massachusetts Inst. Of Tech. v. Assessors of Cambridge*, 422 Mass. 337, 451-52 (1996); *Columbia Pontiac Co. v. Assessors of Boston*, 395 Mass. 1010, 1011 (1985) ("payment of the full amount of the tax due without incurring interest charges is a condition precedent to the board's jurisdiction over an abatement appeal.").

¹ The appellant received notice of the Motion and hearing but chose not to participate.

In the present appeal, the tax on the subject property exceeds \$5,000 and interest was incurred due to the late payment of the first and second quarter installments of the tax bill for fiscal year 2018.

Accordingly, the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

This is a single-member Decision promulgated in accordance with G.L. c. 58A, § 1A and 831 CMR 1.20.

APPELLATE TAX BOARD

By: Patricia M. Good
Patricia M. Good, Commissioner

Attest: Lance Rom, Clerk
Asst.

Date: **MAY 31 2019**
(Seal)

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board